

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

QUINN AARON KLEIN,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-10-603-F
)	
ERIC FRANKLIN, Warden,)	
)	
Respondent.)	

ORDER

On February 8, 2011, United States Magistrate Judge Doyle W. Argo issued a Report and Recommendation, wherein he recommended that respondent's motion to dismiss be granted and petitioner's petition for a writ of habeas corpus under 28 U.S.C. § 2241¹ be dismissed as untimely. Magistrate Judge Argo also recommended based upon his recommendation in regard to respondent's motion to dismiss that petitioner's motion for judgment in his favor be denied.

On February 17, 2011, petitioner filed a motion seeking a 45-day extension of time to file an objection to the Report and Recommendation. The court granted the motion the next day, February 18, 2011. The court's order required petitioner to file any objection on or before April 14, 2011.

The same day as the court's February 18, 2011 order was entered, the court received an objection by petitioner to the Report and Recommendation. The court also received a Motion in Abeyance/Motion to Stay. Although petitioner was granted the additional time, until April 14, 2011, to file an objection to the Report and Recommendation, the court has not received any further objection from petitioner.

¹ Although petitioner filed a petition under 28 U.S.C. § 2254, Magistrate Judge Argo concluded the petition should be construed as arising under 28 U.S.C. § 2241.


The court therefore has conducted a de novo review of the Report and Recommendation under 28 U.S.C. § 636(b)(1) based upon the objection filed by petitioner on February 18, 2011.

Having conducted its de novo review, the court concurs with the recommendation of Magistrate Judge Argo. The court agrees with Magistrate Judge Argo's thorough analysis in its entirety and therefore accepts, adopts and affirms the Report and Recommendation.

As stated, petitioner filed a Motion in Abeyance/Motion to Stay contemporaneous with his objection. In light of the court's ruling in regard to the Report and Recommendation, the court finds that the relief sought by petitioner is not warranted. Thus, the court concludes that petitioner's motion should be denied.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Doyle W. Argo on February 8, 2011 (doc. no. 19) is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. Respondent's Motion to Dismiss Petition for Habeas Corpus As Time Barred by the Statute of Limitations (doc. no. 8) is **GRANTED**. Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 is **DISMISSED** as untimely. Petitioner's Motion for Judgment in His Favor (doc. no. 13) and petitioner's Motion for Abeyance/Motion to Stay (doc. no. 23) are **DENIED**.

DATED April 18, 2011.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE